

§ 570.126 Parental exemption.

By the parenthetical phrase included in section 3(1)(1) of the Act, a parent or a person standing in place of a parent may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (a) Manufacturing; (b) mining; (c) an occupation found by the Secretary to be particularly hazardous or detrimental to health or well-being for children between the ages of 16 and 18 years. This exemption may apply only in those cases where the child is exclusively employed by his parent or a person standing in his parents' place. Thus, where a child assists his father in performing work for the latter's employer and the child is considered to be employed both by his father and his father's employer, the parental exemption would not be applicable. The words "parent" or a "person standing in place of a parent" include natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent. It should further be noted that occupations found by the Secretary to be hazardous or detrimental to health or well-being for children between 16 and 18 years of age, as well as manufacturing and mining occupations, are specifically excluded from the scope of the exemption.

§ 570.127 Homeworkers engaged in the making of evergreen wreaths.

FLSA section 13(d) provides an exemption from the child labor provisions, as well as the minimum wage and overtime provisions, for homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

[75 FR 28459, May 20, 2010]

§ 570.128 Loading of certain scrap paper balers and paper box compactors.

(a) Section 13(c)(5) of the FLSA provides for an exemption from the child labor provisions for the employment of 16- and 17-year-olds to load, but not operate or unload, certain power-driven scrap paper balers and paper box compactors under certain conditions. The provisions of this exemption, which are contained in HO 12 (§570.63) include that the scrap paper baler or compactor meet an applicable standard established by the American National Standards Institute (ANSI) and identified in the statute, or a more recent ANSI standard that the Secretary of Labor has found, incorporated by reference (*see* §570.63), and declared to be as protective of the safety of young workers as the ANSI standard named in the statute.

(b) These standards have been incorporated into these regulations by reference by the FEDERAL REGISTER as discussed in §570.63. In addition, the scrap paper baler or paper box compactor must include an on-off switch incorporating a key-lock or other system and the control of the system must be maintained in the custody of employees who are at least 18 years of age. The on-off switch of the scrap paper baler or paper box compactor must be maintained in an off position when the machine is not in operation. Furthermore, the employer must also post a notice on the scrap paper baler or paper box compactor that conveys certain information, including the identification of the applicable ANSI standard that the equipment meets, that 16- and 17-year-old employees may only load the scrap paper baler or paper box compactor, and that no employee under the age of 18 may operate or unload the scrap paper baler or paper box compactor.

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§ 570.129 Limited driving of automobiles and trucks by 17-year-olds.

Section 13(c)(6) of the FLSA provides an exemption for 17-year-olds, but not 16-year-olds, who, as part of their employment, perform the occasional and incidental driving of automobiles and

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trucks on public highways under specified conditions. These specific conditions, which are contained in HO 2 (§ 570.52), include that the automobile or truck may not exceed 6,000 pounds gross vehicle weight, the driving must be restricted to daylight hours, the vehicle must be equipped with a seat belt or similar restraining device for the driver and for any passengers, and the employer must instruct the employee that such belts or other devices must be used. In addition, the 17-year-old must hold a State license valid for the type of driving involved in the job, have successfully completed a State-approved driver education course, and have no records of any moving violations at the time of his or her hire. The exemption also prohibits the minor from performing any driving involving the towing of vehicles; route deliveries or route sales; the transportation for hire of property, goods, or passengers; urgent, time-sensitive deliveries; or the transporting of more than three passengers at any one time. The exemption also places limitations on the number of trips the 17-year-old may make each day and restricts the driving to a 30-mile radius of the minor's place of employment.

[75 FR 28459, May 20, 2010]

§ 570.130 Employment of certain youth inside and outside of places of business that use power-driven machinery to process wood products.

Section 13(c)(7) of the FLSA provides a limited exemption from the child labor provisions for certain youths between the ages of 14 and 18 years who, by statute or judicial order, are excused from compulsory school attendance beyond the eighth grade, that permits their employment inside and outside of places of business that use power-driven machinery to process wood products. The provisions of this exemption are contained in subpart C of this part (§ 570.34(m)) and HO 4 (§ 570.54). Although the exemption allows certain youths between the ages of 14 and 18 years to be employed inside and outside of places of business that use power-driven machines to process wood products, it does so only if such youths do not operate or assist in the operation of power-driven woodworking

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machines. The exemption also requires that the youth be supervised by an adult relative or by an adult member of the same religious sect as the youth. The youth must also be protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation. For the exemption to apply, the youth must also be required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust.

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ENFORCEMENT

§ 570.140 General.

(a) Section 15(a)(4) of the Act makes any violation of the provisions of sections 12(a) or 12(c) unlawful. Any such unlawful act or practice may be enjoined by the United States District Courts under section 17 upon court action, filed by the Secretary pursuant to section 12(b) and, if willful will subject the offender to the criminal penalties provided in section 16(a) of the Act. Section 16(a) provides that any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) In addition, FLSA section 16(e) states that any person who violates the provisions of FLSA sections 12 or 13(c), relating to child labor, or any regulations issued under those sections, shall be subject to a civil penalty, not to exceed:

(1) \$11,000, for each employee who was the subject of such a violation; or

(2) \$50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is repeated or willful.

(c) Part 579 of this chapter, *Child Labor Violations—Civil Money Penalties*, provides for the issuance of the notice